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UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

WILLIAM WHITE,

٧.

Plaintiff.

JO ANNE BARNHART.

Defendant.

3:06-CV-198-BES-VPC

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#13) ("Recommendation") entered on February 8, 2008, in which the Magistrate Judge recommends that Plaintiff's Motion for Reversal (Doc #9) be granted and Defendant's Cross Motion for Affirmance of the Commissioner's Decision (#12) be denied. No objection to the Report and Recommendation has been filed.

I. Discussion

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1) (2005). Further, under 28 U.S.C. § 636(b)(1), if a party makes a timely objection to the magistrate judge's recommendation, then this Court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." Id. Nevertheless, the statute does not "require[] some lesser review by [this Court] when no objections are filed." Thomas v. Arn, 474 U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not

For an objection to be timely, a party must serve and file it within 10 days after being served with the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1) (2005).

required to conduct "any review at all . . . of any issue that is not the subject of an objection." Id. at 149. Similarly, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See United States v. Reyna-Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); see also Schmidt v. Johnstone, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in Reyna-Tapia as adopting the view that district courts are not required to review "any issue that is not the subject of an objection."). Thus, if there is no objection to a magistrate judge's recommendation, then this Court may accept the recommendation without review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to which no objection was filed).

In this case, the parties have not filed an objection to the Magistrate Judge's Report and Recommendation. Because no objections were filed, this Court is not required to review the Report and Recommendation, and therefore accepts it. Accordingly,

IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#13) entered on February 8, 2008, is adopted and accepted without modification. Thus, in accordance with the Report and Recommendation

IT IS FURTHER ORDERED that Plaintiff's Motion for Reversal (Doc #9) is GRANTED, and Defendant'S Cross Motion for Affirmance of the Commissioner's Decision (Doc #12) is DENIED. This action is REVERSED and REMANDED. The Clerk of the Court shall enter judgment accordingly.

IT IS SO ORDERED.

DATED: This 17th day of March, 2008.

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